HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 121 of 2007

PETITIONER : Udai Ram S/o Bahoran Sahu, aged about 67 years, occupation cultivation, resident of Kalmi, Tahsil Malkharoda, District Janjgir Champa (C.G.)

VERSUS

RESPONDENTS :
1. The Board of Revenue Chhattisgarh, through its president, Board of Revenue, Chhattisgarh, Bilaspur, Tahsil and District Bilaspur (CG)
2. The Additional Collector, Janjgir Champa (CG)
3. The Sub Divisional Officer, Sakti, District Janjgir Champa (CG)
4. Visram S/o Gangu Ram Bhaina, occupation cultivation, resident of Kalmi Tahsil Malkharoda, District Janjgir Champa (CG).

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA.

Single Bench: Hon'ble Justice Shri Satish K. Agnihotri.

Present: Mr. Rajesh Sharma, Advocate for the petitioner.
Miss Deepali Pandey, Panel Lawyer for the State/Respondents 1 to 3.

ORDER

(Passed on 30th day of April, 2007)

1. The petitioner is questioning the legality and validity of the order dated 18.10.2006 (Annexure P/10) passed by the Board of Revenue in Revenue Case No. 445/A-23/02-03 whereby and whereunder the revision was partly allowed and the matter was remitted back to the Collector/Additional Collector, Janjgir-Champa to consider the matter a fresh after hearing the parties.

2. The facts in brief are that the land in dispute bearing Khasra no. 793 area 0.48 acres and Khasra no. 794/3 area 0.53 acres belong to the

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tribe namely Visram, Udeshwar Ram and Kartik Ram. The petitioner was in possession of the said land. The Sub Divisional Officer (Revenue) vide order dated 23.10.1997 (Annexure P/5) passed an order to enter the name of the tribe, who were declared as aboriginal tribe, in the revenue records and possession was to be handed over thereof.

3. Being aggrieved, the petitioner filed an appeal before the Additional Collector, Janjgir-Champa. The Additional Collector, Janjgir-Champa, vide order dated 18.6.2003 (Annexure P/6) came to the conclusion that the petitioner purchased the disputed land after obtaining prior approval of Additional Collector, Bilaspur. However, the petitioner has failed to comply with the provisions of section 170-B of the M.P/C.G. Land Revenue Code, 1959 (hereinafter referred to as "the Code") by not notifying the possession of the agricultural land which belonged to a member of tribe within the prescribed time. Thus, the disputed land is restored back to the original tribal land holder. In view of that, the Additional Collector dismissed the appeal.

4. The Board of Revenue found that the disputed agricultural land belonged to Kartik Ram. He is survived by Sona Ram and Mona Ram, his legal heirs. Therefore directing to make entry in revenue records in the name of Visram s/o Gangu, Udeshwar and Kartik Ram without impleading legal heirs of deceased Kartik Ram was violative of principles of natural justice as well as provisions of section 170-B (2A) of the Code. The authorities below ought to have issued proper notice to the legal heirs of Kartik Ram before passing the order of

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restoring back possession of the land to other persons than the legal heirs of the original land holder, who is a tribe.

5. I have heard the learned counsel appearing for the parties, perused the pleadings and the records appended thereto. The reasons recorded by the Board of Revenue is just and proper and no interference is warranted with the impugned order in exercise of power of supervisory jurisdiction under Article 227 of the Constitution of India. There is no irregularity, illegality or jurisdictional error in the impugned order.

6. Thus, as a result, this petition is dismissed summarily.

7. Consequently, M(W)P No. 262/2007, I.A 718/2007 and I.A.No. 1, application for grant of interim relief, application for taking documents on record and application for listing the case out of turn for urgent hearing, respectively, stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Amit